

**UST TALK**

**A Newsletter for Underground Storage Tank Owners / Operators**

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**Underground Storage Tank (UST) Program**

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**New UST Rules Require Testing of Sumps, Spill Buckets, & Overfill Devices**

Vermont's revised UST Rules went into effect on October 13, 2018. Most of the requirements are similar to our previous version of rules, but with one major exception: containment sumps, spill buckets, and overfill prevention devices must be tested at least once every three years. The first deadline is September 1, 2020; on or before that date all devices must be tested. After the first round of testing, these items must be re-tested at least once every three years.

Allowable testing procedures or methods fall into three categories: 1) a test method recommended by the manufacturer of the device; 2) test methods described in the petroleum Equipment Institute's (PEI) RP-1200: Recommended Practices for the Testing and Verification of Spill, Overfill, Leak Detection, and Secondary Containment Equipment at UST Facilities; or 3) another method approved by the UST Program. (Continued on Page 2)

**EPA UST Director visits Vermont**



Carolyn Hoskinson, Director of EPA's Office of Underground Storage Tanks, visited Vermont on November 27 and 28, 2018. While in Vermont, she visited with the staff of the Vermont UST Program, and she was a featured speaker at the annual meeting of the Vermont Petroleum Association. At the VPA meeting, Carolyn commended Vermont on the high level of cooperation between state regulators and the petroleum industry. Carolyn stressed the need for tank owners and regulators to work together in order to prevent leaks, clean up sites where tanks have leaked, and preserve the quality of our drinking water. She said that other states could learn a lot from Vermont's example.

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## New UST Rules Require Testing of Sumps, Spill Buckets, & Overfill Devices (Cont from Page 1)

If the manufacturer of the sump, spill bucket, or overfill prevention device has recommended a specific protocol for testing that component, follow the manufacturer's recommendations. If there is no recommended testing protocol established by the manufacturer, you can follow the procedures outlined in PEI RP 1200. We are also open to alternative proposals and will evaluate them on a case by case basis.

How does one test a spill bucket or a sump? The most common test for sumps and spill buckets is a hydrostatic test, in which the sump or bucket is filled with water and allowed some time to stabilize. Once it has stabilized, the water level is very carefully measured, and after one hour, the water level is measured again. If the water level has dropped by one eighth of an inch or more, the component fails the test. Given that the pass/fail margin is only an eighth of an inch, it goes without saying that the measuring stick must be in the exact same position for both readings, and measurements must be done very carefully. If a sump is wired such that the submersible pump or dispenser will automatically shut off any time the electronic sensor goes into alarm, then we allow low-level hydrostatic testing, in which only the bottom 4 inches of the sump are tested.



We will allow tank owners to do the tests themselves but be warned: the procedures spelled out in PEI RP 1200 are involved and very specific. If a tank owner does not follow those procedures exactly, we may reject the results. In the end, it may be easier and create fewer headaches to hire a qualified contractor to conduct the tests.



Testing water can be re-used. Obviously, test water will last much longer if sumps and spill buckets are cleaned *before* they are tested. We see many sumps that have large amounts of dirt, sludge, and other crud. If those sumps are not cleaned before testing, the test water will be chocolate-milk brown very quickly, and at that point it cannot be re-used. Once the water is no longer suitable for continued testing, it must be managed in accordance with the requirements of the Vermont Hazardous Waste Management Regulations.

Overfill prevention devices are usually tested by removing them from the tank system and physically examining them to ensure that the function correctly. Some manufacturers make fill pipe shutoff valves that can be tested by lowering a special tool down the fill pipe and activating the shutoff function. Those devices do not have to be removed from the fill pipe. Ball float valves and high-level audible alarms must be removed and physically examined to ensure that the still function correctly. **Any ball float valve that is found not to be working correctly (e.g. the ball is missing from the cage) must be completely removed from the tank, and another method of overfill prevention must be installed.**



Test results must be reported to the UST Program within 30 days of the completion of the test. If a component fails its test, it must be repaired or replaced immediately, and the UST Program must be told of the new component. If there is reason to believe a failed component might have led to a release of petroleum product to the environment (e.g. a leaking spill bucket), a limited site assessment must be conducted



by a qualified environmental consultant. It will be a big job to implement these new testing requirements. We know that. It will be an inconvenience and an expense to conduct these tests, and September of 2020 will be here before we know it. The first round of testing will almost certainly identify many leaking components that have to be repaired or replaced. Clear communication about testing and test results will help ensure repairs are done quickly and facilities operating in compliance.

## A/B Operator vs Self-Certification

**A/B = person who is certified**

**Self-Certification = of the facility by the A/B**

An A/B operator is an owner or employee trained every 2 yrs on UST rules and requirements  
Self-Certification is the A/B operator certifying annually that the facility is in compliance with UST rules.

Two very common questions we get every year – mostly around the end of the year:

- 1) What is the difference between A/B operator certification and Self-Certification?
- 2) Why can't I answer the questions on the self-certification?

The answers:

The A/B operator certification and facility Self-Certification are completely separate and different despite both using the word "Certification". Each facility is required to have a person who has studied and taken an online or classroom training and test to become an A/B operator. The A/B operator must present documentation – usually a certificate from the trainer that the person took the course and passed the test. The certification is good for two years. The A/B operator is required to make sure that each week the required weekly leak detection monitoring is done and that each month someone walks thru the facility and checks each tank system for operational compliance.

The self-certification is documentation that a self-inspection of the facility was done and found to be in compliance with the UST Rules. The documentation consists of an online checklist completed by the A/B operator (or their designee). The inspection and self-certification is performed annually by no later than December 31.

These two "certifications" are linked; if our records show the A/B operator's training certification has expired, the compliance self-certification cannot be completed. Once we receive notice of a certified A/B operator for the facility, the compliance self-certification can be completed.

The on-line compliance self-certification has compliance questions on every page BUT not all questions apply to each facility. That is because the database designs each self-certification based on the details about the facility contained in our database. For example, a self-certification checklist for a facility that has manual interstitial monitoring will not allow the completion of questions that pertain to electronic interstitial monitoring. In a nutshell, if you read a question and you cannot "click" on an answer, then that question does not apply to the facility.

## Succession Planning



### **Succession Planning for UST Facilities**

If your business is a typical US business, you likely have a couple of “grizzled veterans” who could be retiring soon. It is important to figure out what they are responsible for regarding the operation of the USTs, and how they are doing it!

One problem we are seeing routinely with retirements/personnel turnover is the training requirement for the A/B operator. As a reminder, each facility must have at least one person trained to each level (A and B). Trained A/B operators have to take an approved course, pass a test, and submit documentation to the State. The training must be renewed every two years.



The lack of an A/B operator becomes problematic when Annual Self-Certification is due. If state records show the A/B operator training has lapsed, the on-line self-certification program will not work! So a facility owner has to find/designate a new A/B operator and get them to pass the test before they can complete self-certification. Failure to have an A/B operator and/or failure to submit the self-certification are violations of the UST Rules that could result in an enforcement action. So if the next person to retire is the A/B operator, make sure you know who is going to pick up that work and get the training scheduled!

There is a bigger, more serious problem we have been seeing with retirements/personnel turnover. In 2018 there were five inspections that found no leak detection (the most critical component of UST operation) was being conducted. In three of these cases, the tank owners stated the leak detection used to be conducted by an employee who no longer works there. The owners failed to assign the duties to another employee, or were completely unaware of what the employee had been doing! All of these cases resulted in penalties against the UST owner with fines averaging \$5,000.

### **UST Enforcement Summary**

The UST Program settled six cases in 2018. Another five cases were referred to the Office of General Council and are pending. Penalties ranged from \$300 to \$10,000. The violations in the cases include:

Failure to conduct leak detection: 8

Failure to maintain leak detection records: 1

Failure to conduct monthly inspections: 5

Failure to have an environmental assessment done at the time of tank removal: 1

Liquid in sumps, spill buckets, or interstitial space: 2

Operating a UST without a permit: 1

Failure to notify the Agency of tank removal: 1

Failure to monitor a sump: 1

Sensors improperly installed: 1

No A/B operator: 1

Fill Ports not marked/labeled: 1



We here at ANR/DEC/UST Program would like to wish a very fond adieu to our co-worker June Reilly who will be retiring on June 20, 2019. We wish her many happy years in this next phase of her life. Her knowledge in so many areas will be very much missed by all here and we are sure by all of you.

### **Succession Planning Hits Home!**

#### **Comments on A Career**

by June Reilly



For the past few years State government has paid a good deal of attention to the concept of succession planning – making sure the jobs can continue without interruption or loss of quality when folks move along into retirement. Well now it's me they are talking about!

I came to VT in 1987 and after 20 years in the private sector started my second career in the public sector for the State of Vermont as the UST Permit Administrator. I thought I would give it a few years and move along; well here it is 2019 and I'm just getting to the "moving on"! The boss asked (ordered) me to share some thoughts with the UST community before I hit the retirement road, so here goes!

By far my favorite part of the job has been the personal conversations I have had with so many tank owners over the years! I have come to learn a good deal about how to run a VT country store (deli is so important!), the importance of keeping rules simple, and the difference a personal touch can make! I have come to know a good many of you through years of UST ownership and operations and look forward to stopping in on a few of you in my retirement for some "informal" discussions!

The biggest change I have seen over the years is the shrinking of the UST population. When I started in 1987, there were approximately 2000 permitted facilities. Now there are 872 permitted facilities! So many single-owner facilities – the mom and pop stores – have had to stop doing business due to many different factors. VT has lost a lot of local color and meeting-places, but even here in little VT the factors of economics and globalization have their effects. Permitted tanks were my primary concern since they were federally regulated. If we kept the owners in compliance with Vermont rules then they were in compliance with EPA.

What gives me a great deal of satisfaction about this job has been how the UST Program and the tanks owners have worked together to achieve a high compliance rate. It has been years since there has been a catastrophic release from a UST system in the state, and I believe that is due to both the willingness of tank owners to work toward compliance, and the open communication between tank owner and the program.

As I prepare to open the next chapter of my story, I hope that you will maintain the high degree of environmental and human health protection that has become the norm in the past few years, and that you have success and longevity in our lovely State of VT!

Congratulations and best wishes to Joe Choquette!



A big thank you goes to Joseph (Joe) L Choquette, III, for his valuable contribution to the petroleum industry and to the Department of Environmental Conservation, Tank Program. Joe has retired and will no longer be a presence at the State House as a lobbyist representing the petroleum industry nor as a member of the Vermont Petroleum Cleanup Committee. He will be missed but we wish him all the best in his future endeavors.

### Vermont Petroleum Cleanup Fund (PCF)

For over thirty years, the PCF has served as the “insurance” for tank owners. The PCF has provided funds for petroleum cleanup and third-party property damage/ bodily injury at over 4500 properties. Today 97.5% of permitted tank owners use the fund to satisfy their financial responsibility. Here's a brief history!

Regulation of underground storage tanks started in 1986. Federal law required insurance for up to \$1 million per occurrence for pollution coverage and \$1 million per occurrence for third party liability. Because insurance was generally not available, the Vermont legislature was asked to help. The concept for the State fund came from the American Petroleum Institute. With the input and support of Joseph Choquette of the Vermont Petroleum Association, and representatives of local petroleum distributors legislation was crafted and the PCF became law in 1988. Under the legislation, tank owners could: obtain pollution coverage through insurance; self-insure; form a risk retention pool, or; chose to be covered under the PCF. Commercial insurance was unavailable or unaffordable and the industry never pursued the other options due to cost.

Unlike many other states, Vermont's program was a big success from the start. The penny-per-gallon fee on gasoline and diesel fuel and individual tank fees provided just enough money to operate the program. An Advisory Committee was appointed by the legislature and includes representatives from the Department of Environmental Conservation, petroleum retailers, the legislature, and the petroleum wholesale industry.

The PCF Advisory Committee took its role seriously. The DEC staff and the industry worked well together, grew to trust one another, and were able to address problems that came up in the field by identifying cost-effective strategies. An early indication of success was when EPA awarded an Environmental Merit Award in 1999 to recognize the public-private partnership.

In addition to funding cleanup, the PCF has provided loans to “Mom & Pop” stores, municipalities, and all tank owners for the purpose of upgrades, tank replacement and removal. Over time the PCF Advisory Committee began to focus on heating oil cleanup and prevention, offering incentives to homeowners to remove their underground heating oil tanks. In addition, releases from aboveground tanks were becoming a problem and coverage for them was included in the Fund with a fee added to heating fuel to provide funding. In recognition of the expanded role, the PCF Advisory committee was expanded to include representatives from the heating fuel industry and a licensed real estate broker.

Over the years, the DEC, with the support of the committee, has identified environmental and tank industry problems, developed Fund-based solutions, and crafted legislation to address those issues. Because of the collaborative approach and the successful management of the Fund over time, the legislature has accepted almost all of the committee's recommendations both for changes to the PCF and for other areas of law, such as changes to UST requirements and the development of Aboveground Storage Tank Rules.

PCF (cont.)

DEC and the Advisory Committee have always tried to ensure the PCF is utilized efficiently, and for the intended purposes. Reimbursement Procedures have been in place for years that control costs by detailing allowable amounts the Fund will cover for remediation and investigation services. The Advisory Committee commissioned an actuarial study paid for by the fund that demonstrated the long-term need for the Fund, and the need to re-pay funds "borrowed" by the legislature for other purposes.

Joseph Choquette (a member of the committee since the beginning) states "it has been the functioning of the PCF Advisory Committee that has been at the core of the program's success and that has extended to many other areas of cooperation between the industry and the Agency of Natural Resources. This past (2018) session the legislature took the unprecedented step of extending the program for another 10 years. I think that demonstrates the confidence the legislature has in the program". Joe Choquette retired in December 2018 and other members have come and gone over the years, but the Committee and DEC remain dedicated to ensuring sufficient funds exist to deal with releases of petroleum from tanks. There may come a day when the PCF is no longer needed, but despite the improvements in tank technology and increased awareness, that day is not yet here.





Since 2008 the Vermont Storage Tank Program has tracked compliance rates for all 3-year mandatory routine inspections for the Federal fiscal year (October 1, 2017 through September 30, 2018). The compliance rate for the 310 facilities we inspected during this period was 78%, which was 5% lower from the last year but overall within the range of the previous 5 years which varied from 75% - 83%.

Last year's compliance rate is not bad but could definitely be improved upon. It was surprising to learn that several facilities were still not conducting any release detection monitoring documentation at all, or were doing it very occasionally. The usual scenario that led to this violation was that someone retired or left their job for some reason and their replacement was not properly trained.

Another way of determining compliance rates that our program uses is through our Environmental Results Program. This is a compliance rate measured over a normal inspection season (March to December) with 100 randomly selected facilities, which is in addition to the required routine 3-year inspections. Checking compliance through inspection of randomly-selected facilities enables us to project the compliance rate across the entire regulated community with statistical confidence. The compliance rate for this tracking was an impressive 94% ! Much to our approval, this compliance rate has gotten increasingly better over the years beginning in 2008 which was 66%!



*HAVE A HAPPY  
SPRING!!!!*